

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0840**

State of Minnesota,
Respondent,

vs.

Shaniqua Denise Lampkin,
Appellant.

**Filed May 1, 2023
Affirmed
Jesson, Judge**

Hennepin County District Court
File No. 27-CR-20-27767

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Sarah J. Vokes, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie L. Nelson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Segal, Chief Judge; and
Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant Shaniqua Denise Lampkin, who is Black, was convicted of felony threats of violence by an all-White jury. She appeals this conviction on the basis that the denial of her pretrial motion challenging the racial composition of the jury—without granting her

a hearing—was error. Because Lampkin’s motion did not satisfy the requirement that she specify the grounds on which the jury pool violated the law, in light of the three prima facie factors for a pretrial jury challenge under Rule 26.02 of the Minnesota Rules of Criminal Procedure, she was not entitled to a hearing. As a result, we affirm.

FACTS

In December 2020, respondent State of Minnesota charged Lampkin with one count of felony threats of violence¹ due to the allegation that Lampkin approached her boyfriend’s ex-girlfriend at his apartment complex with a handgun, shouted obscenities at her, and then followed her in a car when ex-girlfriend tried to leave the apartment. Lampkin maintained her innocence and proceeded to trial.

After the first day of jury selection, before the jury was sworn, Lampkin filed a motion challenging the jury venire² and requesting a new jury panel “that is an actual clear representation of the cross-section of the population of Hennepin County.” Lampkin’s one-sentence motion described the basis for her challenge: because Black individuals are grossly underrepresented on Hennepin County jury panels “as reflected in the United States Census Bureau statistics for Hennepin County.” The jury venire consisted of 24 individuals who all identified their race as White. Lampkin did not supplement her motion with exhibits or statistical data. The district court denied Lampkin’s pretrial motion. Lampkin noted her objection to this denial, and the parties completed voir dire.³

¹ A charge for felony threats of violence is a violation of Minnesota Statutes section 609.713, subdivision 1 (2020).

² A venire is a panel of prospective jurors from which the jury is eventually chosen.

³ Voir dire is the examination of jurors by trial counsel.

The jury found Lampkin guilty. Subsequently, Lampkin filed a motion for a new trial due to the jury composition infringing on her Sixth Amendment rights. Lampkin also argued that, because she was denied a hearing before the jury was sworn on her initial jury-composition challenge, she is entitled to a new trial in the interests of justice due to an irregularity in the proceedings and errors of law by the district court. The district court denied Lampkin's posttrial motion. Specifically, the court stated:

[T]his is a really important issue. It does come up from time to time, and I've had some experience with it. . . . Ms. Lampkin's obligation is to show that over a significant period of time, panel after panel, month after month, that the group of eligible jurors in question has been significantly underrepresented on the panels and that this results from an unfair or an inadequate selection procedure I don't think here Ms. Lampkin can meet that burden. She's not able to show that the underrepresentation of jurors who are Black, African American or of African descent has occurred over a significant period of time or is the result of any systematic exclusion from the jury selection process. The process used by Hennepin County has been approved by the . . . Supreme Court in the *State v. Roan*, case 532 N.W.2d 563. So I don't think that Ms. Lampkin can meet her burden of proof there.

Lampkin was sentenced to a stay of imposition of her felony sentence and placed on probation for a period of three years.

Lampkin appeals.

DECISION

Lampkin asserts that her case should be remanded for further proceedings because her constitutional right to a jury trial in front of a fair cross-section of the community was violated when she challenged an all-White jury venire twice, and the district court denied

both motions without a hearing. The district court, in denying both jury-composition motions, relied on *State v. Roan* in determining that Lampkin did not meet her burden of establishing the systematic exclusion of Black individuals from Hennepin County's jury-selection process as required to warrant a hearing. 532 N.W.2d 563, 569 (Minn. 1995).

Turning to the standard of review for issues concerning jury composition, we apply a de novo standard to "cases concerning Sixth Amendment challenges to the fair-cross-section requirement." *State v. Griffin*, 846 N.W.2d 93, 99 (Minn. App. 2014), *rev. denied* (Minn. Aug. 5, 2014). In applying that standard of review, we look to the provisions of the United States and Minnesota Constitutions, which protect a criminal defendant's rights to a fair trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. A fair trial includes the requirement "that the jury venire . . . reflect a fair cross-section of the community." *State v. Willis*, 559 N.W.2d 693, 700 (Minn. 1997). But "[t]he Sixth Amendment does not guarantee a criminal defendant a jury of a particular composition or one that mirrors the community." *State v. Williams*, 525 N.W.2d 538, 542 (Minn. 1994); *see also Hennepin County v. Perry*, 561 N.W.2d 889, 895 (Minn. 1997) (explaining that the fair-cross-section-of-the-community requirement is limited and does not guarantee a defendant will receive a jury of a particular racial composition or one that mirrors the racial makeup of the community).

We begin our de novo review by explaining the process of selecting a jury venire and the defendant's burden with regard to a challenge concerning the jury's composition.

Then we apply the law to the facts before us to determine whether the district court erred in denying Lampkin’s pretrial and posttrial motions without a hearing.

The Minnesota Rules of Criminal Procedure provide that the “jury list” is “composed of persons randomly selected from a fair cross-section of qualified county residents,” and requires that “[t]he jury must be drawn from the jury list.” Minn. R. Crim. P. 26.02, subd. 1. The “jury panel” is comprised of prospective jurors and is selected from the “jury list.” Minn. R. Crim. P. 26.02, subd. 2; *see also* Minn. R. Crim. P. 26.02, subd. 4 (providing for selection of the jury from the jury panel). Further, the rules allow a criminal defendant to “challenge the jury panel if a material departure from law has occurred in drawing or summoning jurors.” Minn. R. Crim. P. 26.02, subd. 3. In challenging the jury venire, the defendant must (1) put their motion in writing, (2) before the district court swears in the jury, and (3) specify the grounds by which the jury pool departed from law. *Id.* If these three items are satisfied, the district court “*must* conduct a hearing to determine the sufficiency of the challenge.” *Id.* (emphasis added).

But with regard to the third requirement—specifying the grounds in which the jury pool departed from the law—the defendant must make a *prima facie* showing that the jury panel failed to reflect a fair cross-section of the community in order to be entitled to a hearing. *Perry*, 561 N.W.2d at 896; *Williams*, 525 N.W.2d at 542; *see also* Minn. R. Crim. P. 26.02, subd. 3 (explaining that the jury challenge *must* specify grounds). This *prima facie* showing requires establishing three factors: (1) the “group allegedly excluded is a distinctive group in the community,” (2) the “group in question was not fairly represented in the [jury panel],” and (3) the “underrepresentation was the result of a systematic

exclusion of the group in question from the jury selection process.” *Perry*, 561 N.W.2d at 896 (quotation omitted); *see Williams*, 525 N.W.2d at 542.⁴

Here, Lampkin’s right to a hearing on her jury-composition challenge fails because she did not sufficiently satisfy the specify-grounds requirement in rule 26.02, subdivision 3.⁵ Specifically, Lampkin’s single sentence in her motion describing the basis for her jury-composition challenge was not enough to make a prima facie showing that the jury panel failed to reflect a fair cross-section of the community due to the systematic exclusion of Black jurors.

To reach this conclusion, we begin with Lampkin’s motion, where she challenged and requested a new jury panel. Her motion stated the grounds for her challenge as follows: “as it currently stands, any jury panel, as selected grossly under-represents a fair cross-section of the population of Hennepin County as the panels are grossly under-represented by African American individuals as reflected in the United States Census Bureau statistics for Hennepin County.” But outside of this one sentence, Lampkin did not provide any exhibits or statistical data with her motion. Assuming Lampkin satisfied the first two prima facie factors—(1) the “group allegedly excluded is a distinctive group in the community” and (2) the “group in question was not fairly represented in the” jury panel—because “African-American individuals” are a distinctive group in the

⁴ If the defendant makes this prima facie showing, the state may rebut the showing by establishing that the jury-selection process that produced the underrepresentation nonetheless advanced a significant state interest. *Perry*, 561 N.W.2d at 896.

⁵ Lampkin satisfied the first two requirements for a pretrial jury challenge under rule 26.02, subdivision 3, because she made her challenge in writing before the jury was sworn in.

community and the members of her jury all identified as White, caselaw⁶ instructs us that Lampkin failed to satisfy the third factor, which requires a showing of a systematic exclusion of Black jurors by Hennepin County.

To make a showing of systematic exclusion, a defendant must establish, as the district court aptly described, that “over a significant period of time—panel after panel, month after month—the group of eligible jurors in question has been significantly underrepresented on the panels and that this results from . . . unfair or inadequate selection procedures used by the state.” *Andersen v. State*, 940 N.W.2d 172, 182 (Minn. 2020) (quotation omitted). In *Andersen*, the Minnesota Supreme Court held that Andersen was not denied his right to a fair trial because he failed to demonstrate that the jury-selection process systematically excluded a cross-section of the community, given that he did not submit any evidence to satisfy this factor. *Id.* Similarly, Lampkin failed to make a showing of systematic exclusion of Black jurors because she provided no evidence to support her jury-composition challenge. And without evidence of systematic exclusion, we must apply the analysis in *Roan*. 532 N.W.2d at 569. In *Roan*, the Minnesota Supreme Court held that Roan was not denied his right to a jury trial by a fair cross-section of the community because he failed to demonstrate that the underrepresentation of “pe[ople] of color” from the jury pool was a result of systematic exclusion, given that the Hennepin County jury-selection system uses registered voters, driver’s licenses, and registered Minnesota identification-card holders, which reaches over 98% of Hennepin County’s citizens. *Id.*

⁶ In our review, we must rely only on Lampkin’s motion, the transcripts, and relevant caselaw. *State v. Breaux*, 620 N.W.2d 326, 334 (Minn. App. 2001).

Accordingly, on this record, Lampkin’s jury-composition challenge—in which she stated in one sentence that the jury panel underrepresented Black jurors when looking at United States Census Bureau data without any further evidence to support that statement—was insufficient to establish that Hennepin County’s jury-selection process systematically excludes Black jurors.⁷

In sum, the district court’s rulings on Lampkin’s jury-composition challenges were not in error given the lack of evidence Lampkin provided.

Affirmed.

⁷ Lampkin also asserts that the district court erred when it denied her posttrial jury-venire challenge without holding a hearing. But this argument is a continuation of Lampkin’s initial argument about her pretrial jury-venire challenge. Rule 26.02, subdivision 3, of the Minnesota Rules of Criminal Procedure does not require the district court to hold a hearing for a *posttrial* challenge of the jury venire because this rule only allows a challenge *before the jury is sworn in*. As a result, this argument fails.